

UNITED STATES BANKRUPTCY COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA
DURHAM DIVISION

In Re:

**Phillip L. Williams And Allyson E.
Williams**

Case No. 10-81248
Chapter 13

Social Security No. xxx-xx-6659 and xxx-xx-3569
Address: 504 Stonelick Dr, Durham, NC 27703-

Debtors

MOTION TO MODIFY PLAN

NOW COME the Debtors, by and through counsel undersigned, who move, under authority of 11 U.S.C. § 1329, to modify the Chapter 13 plan in this case, and in support hereof, the Debtors show unto this Court the following:

1. This case was filed on July 16, 2010, with the Chapter 13 plan being subsequently confirmed on October 12, 2010.

2. The Debtors propose to modify the Chapter 13 plan in this case in the following respects:

From: \$1,944.00 per month.

To: \$1,944.00 per month through December 2010, followed thereafter by \$1,846.00 per month, starting in April 2010.

3. In addition, the Debtors request a "waiver" to move their Chapter 13 plan payment delinquency to the end of the Chapter 13 plan for payment. As a condition of receiving these waivers the Debtors agree that, should any subsequent payments be more than thirty (30) days delinquent within the twelve (12) months following the entry of this Order, that the Debtors' case may be dismissed without further hearing by the Court. The Debtors agree that any Order allowing such waivers shall not be *res judicata* as to timely Motions for Relief filed by secured creditors in this case.

4. The changed circumstances that justify the proposed modification are as follows:

a. The Debtors are in the process of seeking a mortgage modification, but have been struggling with their plan payment due to increase utility, gasoline, medical expenses and plumbing repairs.

5. An Amended Schedule I for the Debtors is attached hereto and is incorporated hereto by reference.

6. An Amended Schedule J for the Debtors is attached hereto and is incorporated by reference.
7. The proposed modification conforms to the standards of confirmation set out in 11 U.S.C. §§ 1322 and 1325. This modification is feasible because of the following changes, as detailed on the attached Chapter 13 Worksheet:
 - a. Change in length of plan.

Appended Application for an Additional Attorney Fee

8. Counsel for the Debtors further applies herein, in accordance with Bankruptcy Rule 2016(b), for approval an attorney fee in the amount of \$250.00 to pay for the reasonable value of the services rendered, and to be rendered, with respect to this motion to modify.

WHEREFORE, the Debtors pray that this Court grant their Motion, and modify the Chapter 13 plan accordingly. In addition, counsel undersigned requests that this Court approve a fee in the amount of \$250.00 to compensate undersigned for the services rendered or to be rendered with respect to this motion, said fee to be paid by the Chapter 13 Trustee as an administrative claim in this case.

Dated: April 5, 2011

LAW OFFICES OF JOHN T. ORCUTT, P.C.

/s Edward C. Boltz
Edward C. Boltz
North Carolina State Bar No.: 23003
6616-203 Six Forks Road
Raleigh, N.C. 27615
(919) 847-9750

UNITED STATES BANKRUPTCY COURT
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In Re:

**Phillip L. Williams And Allyson E.
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Address: 504 Stonelick Dr, Durham, NC 27703-

Debtors

CERTIFICATE OF SERVICE

I, Patty Cherigo, certify under penalty of perjury that I am, and at all times hereinafter mentioned was, more than eighteen (18) years of age and that on April 5, 2011 , I served copies of the foregoing **MOTION TO MODIFY PLAN** electronically, or when unavailable, by regular first-class U.S. mail, addressed to the following parties:

Richard M. Hutson, II
Chapter 13 Trustee
Michael West
U.S. Bankruptcy Administrator

Phillip L. Williams And Allyson E. Williams
504 Stonelick Dr,
Durham, NC 27703-

All creditors with duly filed claims as listed on the attached Report of Claims Filed at the addresses listed thereon.

/s Patty Cherigo
Patty Cherigo

In re Phillip Lee Williams, Sr
Allyson Elizabeth WilliamsCase No. 10-81248

Debtor(s)

SCHEDULE I - CURRENT INCOME OF INDIVIDUAL DEBTOR(S) - AMENDED

The column labeled "Spouse" must be completed in all cases filed by joint debtors and by every married debtor, whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed. Do not state the name of any minor child. The average monthly income calculated on this form may differ from the current monthly income calculated on Form 22A, 22B, or 22C.

Debtor's Marital Status:	DEPENDENTS OF DEBTOR AND SPOUSE	
	RELATIONSHIP(S):	AGE(S):
Married	Daughter Son	15 17
Employment:	DEBTOR	SPOUSE
Occupation	Disabled Since 2001	Teacher Assistant
Name of Employer		Durham Public Schools
How long employed		6 Years
Address of Employer		Administrative Unit P.O. Box 30002 Durham, NC 27702

INCOME: (Estimate of average or projected monthly income at time case filed)

1. Monthly gross wages, salary, and commissions (Prorate if not paid monthly)
2. Estimate monthly overtime

DEBTOR	SPOUSE
\$ <u>0.00</u>	\$ <u>1,618.11</u>
\$ <u>0.00</u>	\$ <u>0.00</u>

3. SUBTOTAL

\$ <u>0.00</u>	\$ <u>1,618.11</u>
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4. LESS PAYROLL DEDUCTIONS

- a. Payroll taxes and social security
- b. Insurance
- c. Union dues
- d. Other (Specify): Mandatory Retirement

\$ <u>0.00</u>	\$ <u>187.73</u>
\$ <u>0.00</u>	\$ <u>0.00</u>
\$ <u>0.00</u>	\$ <u>0.00</u>
\$ <u>0.00</u>	\$ <u>97.44</u>
\$ <u>0.00</u>	\$ <u>0.00</u>

5. SUBTOTAL OF PAYROLL DEDUCTIONS

\$ <u>0.00</u>	\$ <u>285.17</u>
\$ <u>0.00</u>	\$ <u>1,332.94</u>

7. Regular income from operation of business or profession or farm (Attach detailed statement)
8. Income from real property
9. Interest and dividends
10. Alimony, maintenance or support payments payable to the debtor for the debtor's use or that of dependents listed above

\$ <u>0.00</u>	\$ <u>0.00</u>

11. Social security or government assistance

(Specify): Social Security Income
Social Security Income for Minor Children

\$ <u>1,449.40</u>	\$ <u>0.00</u>
\$ <u>724.00</u>	\$ <u>0.00</u>
\$ <u>0.00</u>	\$ <u>0.00</u>
\$ <u>0.00</u>	\$ <u>0.00</u>
\$ <u>0.00</u>	\$ <u>0.00</u>

12. Pension or retirement income

13. Other monthly income

(Specify):

\$ <u>0.00</u>	\$ <u>0.00</u>
\$ <u>0.00</u>	\$ <u>0.00</u>

14. SUBTOTAL OF LINES 7 THROUGH 13

\$ <u>2,173.40</u>	\$ <u>0.00</u>
\$ <u>2,173.40</u>	\$ <u>0.00</u>

15. AVERAGE MONTHLY INCOME (Add amounts shown on lines 6 and 14)

\$ <u>2,173.40</u>	\$ <u>1,332.94</u>
\$ <u>2,173.40</u>	\$ <u>1,332.94</u>

\$ 3,506.34

16. COMBINED AVERAGE MONTHLY INCOME: (Combine column totals from line 15)

(Report also on Summary of Schedules and, if applicable, on Statistical Summary of Certain Liabilities and Related Data)

17. Describe any increase or decrease in income reasonably anticipated to occur within the year following the filing of this document:

None Anticipated

In re Phillip Lee Williams, Sr
Allyson Elizabeth WilliamsCase No. 10-81248

Debtor(s)

SCHEDULE J - CURRENT EXPENDITURES OF INDIVIDUAL DEBTOR(S) - AMENDED

Complete this schedule by estimating the average or projected monthly expenses of the debtor and the debtor's family at time case filed. Prorate any payments made bi-weekly, quarterly, semi-annually, or annually to show monthly rate. The average monthly expenses calculated on this form may differ from the deductions from income allowed on Form 22A or 22C.

Check this box if a joint petition is filed and debtor's spouse maintains a separate household. Complete a separate schedule of expenditures labeled "Spouse."

1. Rent or home mortgage payment (include lot rented for mobile home)	\$ <u>0.00</u>
a. Are real estate taxes included?	Yes <u>X</u>
b. Is property insurance included?	Yes <u>X</u>
2. Utilities:	No <u> </u>
a. Electricity and heating fuel	<u>\$ 220.00</u>
b. Water and sewer	<u>\$ 0.00</u>
c. Telephone	<u>\$ 45.00</u>
d. Other <u>See Detailed Expense Attachment</u>	<u>\$ 222.34</u>
3. Home maintenance (repairs and upkeep)	<u>\$ 0.00</u>
4. Food	<u>\$ 466.00</u>
5. Clothing	<u>\$ 0.00</u>
6. Laundry and dry cleaning	<u>\$ 0.00</u>
7. Medical and dental expenses	<u>\$ 60.00</u>
8. Transportation (not including car payments)	<u>\$ 200.00</u>
9. Recreation, clubs and entertainment, newspapers, magazines, etc.	<u>\$ 0.00</u>
10. Charitable contributions	<u>\$ 0.00</u>
11. Insurance (not deducted from wages or included in home mortgage payments)	<u>\$ 0.00</u>
a. Homeowner's or renter's	<u>\$ 150.00</u>
b. Life	<u>\$ 0.00</u>
c. Health	<u>\$ 277.00</u>
d. Auto	<u>\$ 0.00</u>
e. Other	<u>\$ 0.00</u>
12. Taxes (not deducted from wages or included in home mortgage payments) (Specify) <u>Personal Property Taxes</u>	<u>\$ 20.00</u>
13. Installment payments: (In chapter 11, 12, and 13 cases, do not list payments to be included in the plan)	<u>\$ 0.00</u>
a. Auto	<u>\$ 0.00</u>
b. Other	<u>\$ 0.00</u>
c. Other	<u>\$ 0.00</u>
14. Alimony, maintenance, and support paid to others	<u>\$ 0.00</u>
15. Payments for support of additional dependents not living at your home	<u>\$ 0.00</u>
16. Regular expenses from operation of business, profession, or farm (attach detailed statement)	<u>\$ 0.00</u>
17. Other <u>Chapter 13 Plan Payment</u>	<u>\$ 1,846.00</u>
Other	<u>\$ 0.00</u>
18. AVERAGE MONTHLY EXPENSES (Total lines 1-17. Report also on Summary of Schedules and, if applicable, on the Statistical Summary of Certain Liabilities and Related Data.)	<u>\$ 3,506.34</u>
19. Describe any increase or decrease in expenditures reasonably anticipated to occur within the year following the filing of this document: <u>None Anticipated</u>	
20. STATEMENT OF MONTHLY NET INCOME	<u>\$ 3,506.34</u>
a. Average monthly income from Line 15 of Schedule I	<u>\$ 3,506.34</u>
b. Average monthly expenses from Line 18 above	<u>\$ 0.00</u>
c. Monthly net income (a. minus b.)	<u>\$ 0.00</u>

Debtor(s)

SCHEDULE J - CURRENT EXPENDITURES OF INDIVIDUAL DEBTOR(S) - AMENDED
Detailed Expense Attachment

Other Utility Expenditures:

<u>Cell Phone</u>	\$ <u>150.00</u>
<u>Cable</u>	\$ <u>72.34</u>
Total Other Utility Expenditures	\$ <u>222.34</u>

CH. 13 PLAN - DEBTS SHEET
(MIDDLE DISTRICT - STEP PLAN)

Date: 3/30/11

Lastname-SS#: Williams-6659 MTM

RETAIN COLLATERAL & PAY DIRECT OUTSIDE PLAN

Retain	Creditor Name	Sch D #	Description of Collateral

SURRENDER COLLATERAL

Creditor Name	Description of Collateral

ARREARAGE CLAIMS ON RETAINED COLLATERAL

Retain	Creditor Name	Sch D #	Arrearage Amount
	BB&T		\$13,330
			\$2,049

REJECTED EXECUTORY CONTRACTS/LEASES

Creditor Name	Description of Collateral

LTD - DOT on PRINCIPAL RESIDENCE / OTHER REAL PROPERTY

Retain	Creditor Name	Sch D #	Mortgage Payment	Int. Rate	Adequate Protection	Minimum Equal Payment	Description of Collateral
	BB&T		\$834	n/a	n/a	\$834	Pre-Petition
				n/a	n/a		Post-Petition
				n/a	n/a		

STD - SECURED DEBTS (Retain Collateral & Pay FMV Of Collateral)

Retain	Creditor Name	Sch D #	FMV	Int. Rate	Adequate Protection	Minimum Equal Payment	Description of Collateral
	Beneficial		\$13,602	5.25	\$136	\$251	2nd DOT
				7.00			
				7.00			
				7.00			

STD - SECURED DEBTS & 910 CLAIMS (Pay 100%)

Retain	Creditor Name	Sch D #	Payoff Amount	Int. Rate	Adequate Protection	Minimum Equal Payment	Description of Collateral
	Auto Credit		\$8,420	5.25	\$84	\$155	05 Chevy
	Citifinancial		\$11,508	5.25	\$115	\$212	04 GMC
				5.25			
				7.00			
				7.00			
				7.00			

ATTORNEY FEES (Unpaid Paid)

Amount

Law Offices of John T. Orcutt, P.C. \$1,726

SECURED TAXES

Secured Amount

IRS Tax Liens

Real Property Taxes on Retained Realty

UNSECURED PRIORITY DEBTS

Amount

IRS Taxes

State Taxes

Personal Property Taxes

\$127

Alimony or Child Support Arrearage

CO-SIGN PROTECT (Pay 100%)

Int. %

Payoff Amount

All 'Co-Sign Protect Debts (See***)

GENERAL NON-PRIORITY UNSECURED

Amount to Pay

DMI - None(\$0)

Other Miscellaneous Provisions

PROPOSED CHAPTER 13 PLAN

\$ 1846 /month for 57 months, then

\$ N/A /month for N/A months.**

Definitions

Sch D # = The number of the secured debt as listed on Schedule D.

Adequate Protection = Required monthly 'Adequate Protection' payment.

* = Minimum of DMI x ACP, minus all co-sign protect debt.

** = Plan duration is subject to "Duration of Chapter 13 Plan" provision.

*** Co-sign protect on all debts so designated on filed schedules D, E and F

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